

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

IN RE:)
LAWRENCE DEAN PERRY) Case No. 14-12791 JDL
BRANDY MICHELLE PERRY)
Debtors.) Chapter 13
)

**DEBTORS' OBJECTION TO CLAIM NUMBER 7 WITH NOTICE OF HEARING OR
REQUIRED RESPONSE AND NOTICE OF OPPORTUNITY FOR HEARING
COMBINED WITH NOTICE OF HEARING DATE**

The Debtors have examined the secured claim of Creditor, Green Tree Servicing, LLC, claim number 7, in the amount of \$119,492.47 and, pursuant to 11 U.S.C. Section 502, Rule 3007 of the Federal Rules of Bankruptcy Procedure, and Local Bankruptcy Rule 3007-1, herby object to the claim for the following reasons:

1. The Debtors' mortgage payment is made through their Chapter 13 plan. The proof of claim filed by the mortgage company was listed at Green Tree Servicing, LLC at the time of filing. The Trustee currently shows the mortgage payee to be Ditech Financial, LLC.
2. The Debtors' mortgage payment includes an escrow portion that is to be used to pay the Debtors' property taxes and homeowners insurance on the Debtors' home located at 41 Post Office Neck, Shawnee, Oklahoma 74801.
3. The Debtors received a letter from their insurance company dated May 26, 2016 stating that the insurance on their home had been cancelled due to non-payment of the premiums.
4. The Debtors and Debtors' counsel have repeatedly requested Ditech pay the insurance premiums, however Ditech has failed to do so.
5. The Debtors have made their plan payments to the Trustee, and the Trustee has made the payments to Ditech.
6. By accepting the funds that the Trustee is sending them, Ditech is taking money for the Debtors' insurance premiums and not properly applying it.

WHEREFORE, the Debtors respectfully request that claim number 7 filed by Green Tree Servicing, LLC (now Ditech) in the amount of \$119,492.47 be adjusted to show that the ongoing mortgage payment shall be \$520.78, which represents only the principal and interest portion of

the mortgage payment beginning as of July 1, 2014. Further, that Ditech adjust the Debtors' mortgage payment due date by an amount that applies the the money Ditech received from the Trustee to the Debtors' mortgage arrearage and ongoing mortgage payments, and not to an escrow account since Ditech did not use the funds for that purpose, and for further relief as the Court deems proper.

NOTICE OF OPPORTUNITY FOR HEARING

Your rights may be affected. You should read this document carefully and consult your attorney about your rights and the effect of this document. If you do not want the Court to grant the motion, or you wish to have your views considered, you must file a written response to the motion with the Clerk of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102 no later than 14 days from the date of filing of the motion. You should also serve a file stamped copy of the response to the undersigned [and others who are required to be served] and file a certificate of service with the Court. A hearing on the motion has been set for February **, 2017, at 8:30 a.m. before the Honorable Judge Janice Loyd, 2nd Floor Courtroom, 214 Dean A. McGee Avenue, Oklahoma City, Oklahoma 73102. If no response is timely filed, the court may grant the motion without further notice.

[Note – this is a flat fourteen (14) days regardless of the manner of service.]

**NOTICE OF HEARING
(TO BE HELD IF A RESPONSE IS FILED)**

Notice is hereby given that if a response to the Debtor's Objection To Claim is filed, the hearing on the matter will be held on February 7, 2017, at 8:30 a.m. in the 2nd floor courtroom of the United States Bankruptcy Court for the Western District of Oklahoma, 215 Dean A. McGee Avenue, Oklahoma City, OK 73102. If no response is timely filed, and the court grants the

requested relief prior to the above-referenced hearing date, the hearing will be stricken from the docket of the Court.

LAWRENCE DEAN PERRY
BRANDY MICHELLE PERRY

By: s/ Angela N. Stuteville
O. Clifton Gooding (OBA #10315)
Angela N. Stuteville (OBA #19231)

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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of December 2016 copies of the above referenced document were forwarded via U.S. Mail, first class, postage prepaid and properly addressed to the following at the addresses shown below:

Lawrence and Brandy Perry
41 Post Office Neck
Shawnee, OK 74801

Ditech Financial LLC
PO Box 0049
Palatine, IL 60055

Ditech Finnacial LLC
PO Box 44265
Jacksonville, FL 32231

Kirk Cejda
Shapiro & Cejda
770 NE 63rd Street
Oklahoma City, OK 73105

s/ Angela N. Stuteville
O. Clifton Gooding
Angela N. Stuteville